IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.2708 of 2006

DATE OF ORDER: 4.4.2007

Mathra Dass

...Petitioner(s)

Versus

Nanak Chand and Another

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Sandeep Jasuja, Advocate.

Mrs. Renu Bala Sharma, Advocate.

M.M. AGGARWAL,J

This is petition against order dated 1.4.2006 passed by Additional Civil Judge(Sr.Divn.), Abohar whereby the Court had framed additional issues on the request of the defendant but then had fixed the case straightaway for rebuttal evidence and arguments.

On behalf of the petitioner, it is argued that additional issues had been framed on 1.4.2006 and onus to prove many of the additional issues was on the defendant and after framing additional issues defendant prayed for opportunity to lead evidence but the trial court did not give any opportunity and then straightway fixed the case for rebuttal evidence and arguments.

On behalf of the defendant, now petitioner it is argued that opportunity of leading evidence should have been granted to the defendant after framing of additional issue.

On behalf of the respondent-plaintiff, it is argued that the parties had already led evidence. Case is pending since 1992 and since the defendant had already led evidence, trial Court was justified in not granting any further opportunity.

When the additional issues are framed and onus of those issues

are on the defendant then defendant has to be given an opportunity to lead evidence and then plaintiff also has to be given opportunity to rebut that evidence.

Under these circumstances, this petition is allowed. It is directed that the trial Court shall fix the case for defendant's evidence. It shall give short adjournments for the defendant's evidence and not more than two opportunities shall be given for this purpose and after that plaintiff shall also been given an opportunity to rebut evidence.

April 04, 2007 (M.M. AGGARWAL)
manoj JUDGE